

REFERENCE TITLE: healthy forests; technical correction

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2836

Introduced by
Representative Chase: Senator Jarrett

AN ACT

AMENDING SECTION 41-1516, ARIZONA REVISED STATUTES; RELATING TO HEALTHY
FOREST ENTERPRISE INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to
3 read:

4 41-1516. Healthy forest enterprise incentives: definitions

5 A. The department of commerce shall:

6 1. Implement a program to encourage counties, cities and towns to
7 provide local incentives to economic enterprises that promote forest health
8 in this state.

9 2. Identify and certify to the department of revenue the names of and
10 relevant information relating to qualified businesses for the purposes of
11 available state tax incentives for economic enterprises that promote forest
12 health in this state.

13 B. To qualify for state tax incentives pursuant to this section, a
14 business:

15 1. Must be primarily engaged in a qualifying project. The business
16 shall submit to the department of commerce evidence that it is engaged in a
17 qualifying project as follows:

18 (a) The business operation must enhance or sustain forest health,
19 sustain or recover watershed or improve public safety.

20 (b) If the qualifying forest product is on federal land, the business
21 shall submit a letter from the federal agency administering the land, or
22 official records or documents produced in connection with the project,
23 stating that the business is primarily engaged in ~~the business of~~ harvesting
24 or **THE** initial processing of qualifying forest products for commercial use as
25 follows:

26 (i) At least seventy per cent of the harvested or processed products,
27 measured by weight, must be qualifying forest products.

28 (ii) At least seventy-five per cent of the qualifying forest products,
29 measured by weight, must be harvested from sources in this state.

30 (c) If the qualifying forest product is not on federal land, the
31 business shall submit a letter from the state forester stating that the
32 business is primarily engaged in ~~the business of~~ harvesting or **THE** initial
33 processing of qualifying forest products for commercial use as follows:

34 (i) At least seventy per cent of the harvested or processed products,
35 **MEASURED BY WEIGHT**, must be qualifying forest products.

36 (ii) At least seventy-five per cent of the harvested or processed
37 products, **MEASURED BY WEIGHT**, must be from areas in this state.

38 (d) If the business is engaged in transporting qualifying forest
39 products, it must submit a letter from the state forester or United States
40 forest service, or official records or documents produced in connection with
41 the project, stating that all of the qualifying forest products it transports
42 are harvested from areas in this state. In addition, the business must
43 submit evidence to the department of commerce that at least seventy-five per
44 cent of the mileage traveled by its units each year are for transporting
45 qualifying forest products from or to qualifying projects described in

subdivision (b) or (c) of this paragraph, unless a lower mileage is due to forest closures or weather conditions that are beyond the control of the business.

2. Must employ at least three permanent full-time employees.

3. Must agree to:

(a) Furnish to the department of commerce information relating to the amount of state tax benefits that the business receives each year.

(b) The disclosure **BY THE DEPARTMENT OF COMMERCE OR THE DEPARTMENT OF REVENUE** of the amount of state tax benefits received each year in composite form, without specific identification of the taxpayer.

4. Must enter into a memorandum of understanding with the department of commerce containing:

(a) Employment goals. Each year the business must report in writing to the department of commerce its performance in achieving the goals.

(b) A commitment to continue in business and use the qualifying equipment primarily on qualifying projects in this state as described in paragraph 1 of this subsection, other than for reasons beyond the control of the business. The department of commerce shall consult with the department of revenue in designing the memorandum of understanding to incorporate the legal qualifications for the available tax incentives and shall include the requirement that any qualifying equipment that is purchased or leased free of transaction privilege or use tax must continue to be used in this state for the term of the memorandum of understanding or the duration of its operational life, whichever is shorter.

(c) Provisions considered necessary by the department of commerce to ensure the competency and responsibility of businesses that qualify under this section, including registration or other accreditation with trade and professional organizations and compliance with best management and operational practices used by governmental agencies in awarding forestry contracts.

(d) The authorization for the department of commerce to terminate, adjust or recapture all or part of the tax benefits provided to the business on noncompliance with the law, noncompliance with the terms of the memorandum or violation of the terms of any contracts with the federal or state government relating to the qualifying project. The department of commerce shall notify the department of revenue of the conditions of noncompliance. The department of revenue may also terminate the certification if it obtains information indicating a failure to qualify and comply. The department of revenue may require the business to file appropriate amended tax returns or to file appropriate use tax returns reflecting the recapture of the direct or indirect tax benefits.

5. Must submit a copy of the certification to the department of revenue for approval before using the certification for purposes of any tax incentive. The department of revenue shall review and approve the certification in a timely manner if the business is in good standing with the

1 department and is not delinquent in the payment of any tax collected by the
2 department. A failure to approve or deny the certification within sixty days
3 after the date the business submits it to the department constitutes approval
4 of the certification.

5 C. For the purposes of section 42-5075, subsection B, paragraph 19,
6 the department of commerce shall certify prime contractors that contract for
7 the construction of any building, or other structure, project, development or
8 improvement owned by a qualified business for purposes of a qualifying
9 project described in subsection B, paragraph 1 of this section.

10 D. To obtain and maintain certification under this section, a business
11 must:

- 12 1. Apply to the department of commerce.
- 13 2. Submit and retain copies of all required information, including
14 information relating to the actual or projected number of employees in this
15 state.
- 16 3. Allow inspections and audits to verify the qualification and
17 accuracy of information submitted to the department of commerce.

18 E. Certification under this section is valid for twelve calendar
19 months from the date of issuance. A business must apply for recertification
20 at least thirty days before the current certification expires. The
21 application for recertification shall be in a form prescribed by the
22 department of commerce and shall confirm that the business is continuing in a
23 qualifying project and is in compliance with all requirements prescribed for
24 certification.

25 F. Within sixty days after receiving a complete and correct
26 application and all required information as prescribed by this section, the
27 department of commerce shall grant or deny certification and give written
28 notice by certified mail to the applicant. The applicant is certified as a
29 qualified business on the date the notice of certification is delivered to
30 the applicant. A failure to respond within sixty days after receiving a
31 complete and correct application constitutes approval of the application.

32 G. The certification shall state an effective date with respect to
33 each authorized tax incentive which, in each case, must be at the start of a
34 taxable year or taxable period.

35 H. On or before March 1 of each year, each qualifying business shall
36 make a report to the department of commerce on all business activity in the
37 preceding calendar year. Business information contained in the reports is
38 confidential and shall not be disclosed to the public except as provided by
39 this section and except that a copy of the report shall be transmitted to the
40 department of revenue. The report shall be in a form prescribed by the
41 department of commerce and include:

- 42 1. Information prescribed by the department of commerce with respect
43 to both qualifying projects and other projects and business activity that do
44 not qualify for purposes of this section.

2. Employment information necessary to confirm eligibility for income tax credits as prescribed by sections 43-1076 and 43-1162.

I. For purposes of administering and ensuring compliance with this section, agents of the department of commerce may enter, and a qualified business shall allow access to, a qualifying project site at reasonable times and on reasonable notice to:

1. Inspect the facilities at the site.

2. Obtain factual data and records pertinent to and required by law to be kept for purposes of tax incentives.

3. Otherwise ascertain compliance with law and the terms of the memorandum of understanding.

J. The department of commerce shall revoke the business' certification and notify the department of revenue and county assessor if either:

1. Within thirty days after a formal request from the department of commerce or the department of revenue the business fails or refuses to provide the information or access for inspections required by this section.

2. The business no longer meets the terms and conditions required for qualification for the applicable tax incentives.

K. For the purposes of this section:

1. "Forest health" means the degree to which the integrity of the forest is sustained, including reducing the risk of catastrophic wildfire and destructive insect infestation, benefiting wildland habitats, watersheds and communities.

2. "Harvesting" means all operations relating to felling or otherwise removing trees and other forest plant growth and preparing them for transport for subsequent processing.

3. "Initial processing" means:

(a) The first change, after harvest, in the physical structure of qualifying forest products removed from a qualifying project into a marketable commercial product or component of a product that has commercial value to a consumer or purchaser and that is ready to be used with or without further altering its form.

(b) Burning qualifying forest products in the process of commercial electrical generation or commercial thermal energy production for heating or cooling, regardless of the physical structure of the forest product before burning.

4. "Qualifying equipment" means equipment used directly in the harvesting or initial processing of qualifying forest products removed from a qualifying project. Qualifying equipment does not include self-propelled vehicles required to be licensed by this state, but may include other licensed vehicles as provided by this paragraph. Qualifying equipment includes:

(a) Forest thinning and residue removal equipment, including mulching and masticating equipment, feller-bunchers, skidders, log loaders, portable chippers and grinders, slash bundlers, delimbers, log trailers, chip trailers

1 and other trailers that are uniquely designed for handling forest products
2 and that are licensed for operation on public highways.

3 (b) Forest residue receiving and handling equipment, including truck
4 dumpers, log unloaders, scales, log decking facilities and equipment and chip
5 pile facilities.

6 (c) Sorting and processing equipment, including portable and
7 stationary log loaders, front end loaders, fork lifts and cranes, chippers
8 and grinders, screens, decks and debarkers, saws and sawmill equipment,
9 firewood processing, wood residue baling and bagging equipment, kilns,
10 planing and molding equipment and laminating and joining equipment.

11 (d) Forest waste and residue disposal and processing equipment,
12 including:

13 (i) Processing and sizing equipment, hogs, chippers, screens,
14 pelletizers and wood splitters.

15 (ii) Transporting and handling equipment, including loaders,
16 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

17 (iii) Waste use equipment, including fuel feed, storage bins, boilers
18 and combustors.

19 (iv) Waste project use equipment, including generators, switchgear and
20 substations and on-site distribution systems.

21 (v) Generated waste disposal equipment, including ash silos and
22 wastewater treatment and disposal equipment.

23 (vi) Shop and maintenance equipment and major spares having a value of
24 more than five thousand dollars each.

25 5. "Qualifying forest products" means dead standing and fallen timber,
26 and forest thinnings associated with the harvest of small diameter timber,
27 slash, wood chips, peelings, brush and other woody vegetation, removed from
28 federal, state and other public forest land and from private forest land.

29 6. "Qualifying project" means harvesting, transporting or the initial
30 processing of qualifying forest products as required for certification
31 pursuant to this section.